IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 7027 of 1999

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GAURAV N LAKUM - Petitioner(s)
Versus
STATE OF GUJARAT & 3 - Respondent(s)

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Appearance :

M/S TRIVEDI & GUPTA for Petitioner(s) : 1,
MS ML SHAH, AGP for Respondent(s) : 1,
MR AD OZA for Respondent(s) : 2,
RULE SERVED for Respondent(s) : 3,
MS PJ DAVAWALA for Respondent(s) : 4,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 14/09/2006

ORAL JUDGMENT

1. The petitioner has approached this Court praying mainly for two fold reliefs. First prayer is for

grant of Credit Certificate to the petitioner by respondent no.2 certifying that the petitioner had successfully cleared standard 12 examination in the Science Stream in March 1995. The second prayer is with respect to a direction not to cancel his admission granted to the petitioner in the course of Master in Computer Applications. Shortly stated, the petition is in the following background.

2. The petitioner was a student of Science. He appeared in 12th standard examination conducted by the respondent no.2-Board in March 1995. Upon declaration of the results in March 1995, the petitioner was declared "pass". Mark-sheet was also issued accordingly. On the basis of this mark-sheet, the petitioner also secured admission in Science College. The respondents have also issued Certificate in favour of the petitioner that he passed the examination in first trial. The petitioner since was not satisfied with the marks assigned to him by the Board, applied for rechecking of the papers for the subject of Mathematics Paper -I and II.

2.1. So far as the petitioner is concerned, his application for rechecking was not replied to by the

Board. Simultaneously, the petitioner wanted to pursue his studies in the science college. He graduated from Gujarat University in the year 1999. It is the case of the petitioner that in June 1999, his family changed the residence. The petitioner lost his original mark-sheet. Since he required mark-sheet for admission in ITI course in the year 1996, he had applied for a duplicate mark-sheet. At that time also, the Board issued a mark-sheet which showed no change in the marks obtained by the petitioner.

2.2 After completion of graduation, the petitioner wanted admission in Post Graduate course in Computer Applications. For securing admission to the said course, the petitioner applied for the entrance test. To secure the admission, the petitioner had to produce a Credit Certificate from the Board. He therefore, approached respondent no.2-Board to issue Credit Certificate. At that time he was informed by the Board that he had failed in the subject of Mathematics in 12th Standard and therefore, such a certificate cannot be granted. It is the case of the petitioner that after being issued first mark-sheet, the petitioner was never conveyed that he has failed in the examination. That

even at the time of issuance of duplicate mark-sheet, the Board only communicated original marks obtained by the petitioner. It is therefore, contended that the stand of the respondent is wholly illegal and impermissible.

3. On the other had respondent no.2-Board through an affidavit in reply and through oral submissions made before this Court has contended that though initially by mistake the petitioner was declared "pass" by giving grace marks, on verification it was found that the petitioner had not secured sufficient marks to pass even with grace marks. The petitioner was conveyed the same through school in which he was studying in response to his application for rechecking. It is therefore, contended that prayer made in the petition cannot be granted.

4. The school has filed affidavit in reply and denied having received any such communication from the Board.

5. While admitting this petition, learned Single Judge of this Court did not permit the

petitioner to pursue his further studies in the course of Master in Computer Applications. The question of granting certificate to the petitioner for pursuing such a course therefore, and also in view of the passage of time, could not survive.

6. Facts of the case are rather peculiar. The petitioner was declared "pass" by the Board while declaring the results in March 1995. Though the case of the Board is, upon verification it was found that declaring the petitioner as "pass" was a mistake, almost indisputably the petitioner was never conveyed this decision. There may be some dispute between the Board and the school regarding the communication of decision, the fact remains that it is not even the case of the Board that the petitioner was ever conveyed the said decision. In the meantime, on the basis of mark-sheet issued by the Board, which was never recalled, the petitioner pursued his further studies in Science. He graduated from Gujarat University and wanted to enroll further in the course of Master in Computer Applications, at which stage the mistake was detected. More than 10 years have been passed since the petitioner appeared in the 12th standard examination. At that time, if the Board had

declared him "fail", he would have reappeared in the examination and tried to pass the same. In the meantime, he has also obtained graduation degree. i am told that the petitioner is now settled abroad. Further question of pursuing the studies in the course of Master in Computer Applications therefore, does not survive.

7. Considering all these aspects of the matter, this petition is closed by providing that the graduation degree of the petitioner would not be in peril. No useful purpose would be served in doing so.

8. With these directions, the petition is disposed of. Rule is discharged.

(Akil Kureshi,J.)

(vjn)